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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,375	09/14/2004	Derek Tai Tong		5374

44762 7590 03/27/2007  
DEREK TONG  
2091 WENDOVER LANE  
SAN JOSE, CA 95121

EXAMINER
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PRIOLEAU, AVERY D

ART UNIT	PAPER NUMBER
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3782

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/27/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/711,375	TONG, DEREK TAI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Avery D. Prioleau	3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Specification*

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

It is noted that the applicant only included a written description and above titles should also be included.

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The disclosure is objected to because of the following informalities: The applicant misspelled the word "us" and should be changed to --use—on (page 2 of 6, line 14). Appropriate correction is required.

***Claim Objections***

2. Claim 10 is objected to because of the following informalities: The applicant misspelled the word "piecing" and should be changed to --piercing--. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-11 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

5. In claims 1-11, "A device" has not been set forth in the claim in order to provide proper antecedence for the language "The device".

The functional recitation "a unique way to extract liquid out of a pouch" is not supported by sufficient structure in the language of the claim to permit the function to occur.

6. Regarding claim 3, there is insufficient structure to support the functional recitation claimed.

Claim 2 recites the limitation "the inner pouch" and the "exterior". There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "the straw/spout", "the bottom" and the "bag". There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "both straw/spout openings". There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "the pouch". There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the internal piercing", "the pouch", and "the interior". There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "the straw/spout". There is insufficient antecedent basis for this limitation in the claim.

Claims 2-3 is indefinite because of the word "can".

Claim 6 must be written in a single sentence.

Claim 7 must be written in a single sentence.

Claim 8 must be written in a single sentence.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Sigouin et al. (US 5,884,758).

9. Regarding claim 1, Sigouin et al. discloses the device is a unique way to extract liquid out of a pouch (Col. 3, line 35-45).

10. Regarding claim 2, Sigouin et al. discloses the device (20) is incorporated into the inner pouch not visible on the exterior (Fig. 1).

11. Regarding claim 3, Sigouin et al. discloses the device is specifically designed to be efficient in extracting liquids from the pouch (Col. 3, line 35-45).

12. Regarding claim 6, Sigouin et al. discloses a straw (20), which is considered to be a male connecting piece.

13. Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Wainberg (US 4,265,372).

14. Regarding claim 4, Wainberg discloses the device (88) is designed with a snap-on/zip seal which once active, creates one or more solid spout/straw/opening to extract the liquid from the pouch (Fig. 12).

15. Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Rosenfield (US 4,889,044).

16. Regarding claim 5, Rosenfield discloses the device (2) can be designed with various sizes and incorporated into various pouches (Claim 1).

17. Claims 8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Edwards et al. (US 5,782,344).

18. Regarding claim 8, Edwards et al. discloses the device (12) is designed with both straw/spout openings to be oval in shape with close to a 45 degree angle (Fig. 7).

19. Regarding claim 10, Edwards et al. discloses the device is unique with the internal piecing through the pouch from the interior straw/spout (Fig. 3).

20. Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Cohanfard (US 5,328,069).

21. Regarding claim 11, Cohanfard discloses the device (28) is designed with a small pocket like cover for the straw/spout (22) once it is opened, therefore, saving it for later consumption.

### ***Claim Rejections - 35 USC § 103***

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

23. Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards et al. (US 5,782,344).



24. Regarding claims 7 and 9, Edwards et al. meets the recitation of the all of the claimed features except for the length in the dimension of the straw and a length on the straw/spout to be about 1-2 inch long, not reaching all the way into the bottom of the bag. This allows space between a half drunk pouch and the straw/spout. Making it less likely to spill out liquid when squeezed. However, it would have been an obvious matter of design choice to make the straw of Edwards et al. large enough to prevent accidental indigestion from children and have the length of the straw to be about 1-2 inch long to allow space between a half drunk pouch and the straw since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

### ***Conclusion***

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Avery D. Prioleau whose telephone number is 571-272-3427. The examiner can normally be reached on M-Th 8-5:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AP

  
**JES F. PASCUA**  
**PRIMARY EXAMINER**